

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THOMAS KELLY,

Petitioner,

- against -

SUPERINTENDENT LEMPKE,

Respondent.

**MEMORANDUM
OPINION & ORDER**

08 Civ. 8241 (BSJ) (RLE)

RONALD L. ELLIS, United States Magistrate Judge:

Pro se Petitioner Thomas Kelly seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By letter dated May 11, 2009, Kelly indicates to the Court that he is in the process of preparing his reply to the Respondent's answer to his petition for the writ. He notes that his petition is mixed, and seeks guidance from the Court regarding the correct procedure for "delet[ing] the unexhausted argument in [his] petition." A copy of Kelly's letter is attached hereto.

IT IS THEREFORE ORDERED THAT Respondent may submit any response to Kelly's correspondence by **June 19, 2009**.

**SO ORDERED this 5th day of June 2009
New York, New York**

A handwritten signature in black ink, appearing to read "Ronald L. Ellis".

**The Honorable Ronald L. Ellis
United States Magistrate Judge**

To: Clerk
Pro-Se office
United States Distric Court
Southern District of New York
500 Pearl St. Rm 230
New York, NY 10007

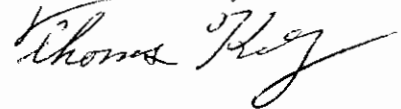
5-11-09

08Civ. 8241(BSJ) (RLE)

Dear sir,

I am currently in the process of preparing a reply to the respondents answer to my Habeaus Corpus petition. In the answer he points out correctly, that I have a mixed petition. I would like to delete the unexhausted arguement in my petition. Could you advise me of the correct procedure for doing this.

Yours truly



Thomas Kelly
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